THE D

STATE OF NORTH CAROLINA 2837 TOY 22 AND THE SUPERIOR COURT

POLK COUNTY

CIVIL DIVISION

O7-CVS- /3/

C. Burgess,]	
Plaintiff]	
]	
VS.]	CIVIL COMPLAINT
	· }	-JURY TRIAL DEMANDED
Eforce Media, Inc.,; IWizard Holding	1	
Inc.,; Adknowledge, Inc.,; Baseball]	
Express, Inc.,; Allen-Edmonds Shoe]	
Corporation, ; Intersearch Group, Inc.,;]	
Trusco Manufacturing Company, ;	1	
Pricegrabber.com, Inc.,; Shopzilla, Inc.;]	
Dazadi, Inc.,; Six Three Zero]	
Enterprises, LLC,]	
Defendants	1	

Now comes the Plaintiff, pro se, and alleges and says:

PLAINTIFF

1. That C. Burgess is a citizen and resident of North Carolina and is hereafter referred to as the Plaintiff.

DEFENDANTS

- 2. That Six Three Zero Enterprises, LLC, is a limited liability corporation under the laws of California and is doing business in North Carolina via the Internet and has established minimum contacts with this state and is hereafter referred to as Six or Defendants.
- 3. That Dazadi, Inc., is a California corporation doing business in North Carolina via the Internet and has established minimum contacts with this state and is hereafter referred to as Dazadi or Defendants.
- 4. That Intersearch Group, Inc., is a Delaware corporation doing business in North Carolina via the Internet and has established minimum contacts with this state and is hereafter referred to as Intersearch or Defendants.
- 5. That Shopzilla, Inc., is a Ohio corporation, using a California registration and does business in North Carolina via the Internet and has established minimum contacts with this state and is hereafter refereed to as Shop or Defendants.
- 6. That Pricegrabber.com, Inc. is a California corporation doing business in North Carolina via the Internet and has established minimum contacts with this state and is hereafter referred to as Price or Defendants.
- 7. That Trusco Manufacturing Company is a Florida corporation doing business in North Carolina via the Internet and has established minimum contacts with this state and is hereafter referred to as Trusco or Defendants.

- 8. That Allen-Edmonds Shoe Corporation is a Wisconsin corporation doing business in North Carolina via the Internet and has established minimum contacts with the state of North Carolina and is hereafter referred to as Allen or Defendants.
- 9. That Baseball Express, Inc., is a corporation licensed in the state of Texas, is doing business in North Carolina via the Internet and has established minimum contacts with North Carolina and is hereafter referred to as Baseball or Defendants.
- 10. That Eforce Media, Inc., is a California corporation doing business in North Carolina via the Internet and has established minimum contacts with the state of North Carolina and is hereafter referred to as Eforce or Defendants.
- 11. That Iwizard Holdings, Inc., is an Arizona corporation doing business in North Carolina via the Internet and has established minimum contacts with the state of North Carolina and is hereafter referred to as Iwizard or Defendants.
- 12. That Adknowledge, Inc., is a Missouri corporation doing business in North Carolina via the Internet and has established minimum contacts with the state of North Carolina and is hereafter referred to as AD or Defendants.

STATEMENT OF FACTS

13. That the Plaintiff owns his own computer and it is not public property nor in the public domain.

- 14. That the Plaintiff pays for his access to the Internet and as such that access is his and his alone and is not in the public domain nor is it public property.
- 15. That the Plaintiff's personal computer is in fact his personal property and he has a privacy right in the use of his computer.
- 16. That the Plaintiff's computer was paid for by the Plaintiff and as such is his personal property.
- 17. That the Can-Spam Act, passed by Congress in 2003, is applicable to the state courts as well as the federal courts.
- 18. That at all times mentioned in this complaint, the Defendants, individually knew or should have known the facts stated herein.

COUNT ONE

AGAINST DEFENDANTS: IWIZARD, EFORCE, BASEBALL AND **ADKNOWLEDGE**

STATEMENT OF FACTS

- 19. That this group of Defendants has repeatedly sent to the Plaintiff emails in violation of the Can-Spam Act of 2003, emails that promote their various financial interest. That the Plaintiff has repeatedly attempted to have his email address removed from their mailings, all without success.
- 20. That the emails were not solicited, not agreed upon and were not welcome.
- 21. That the Defendants would, in some cases, sell the email address of the Plaintiff to others which prevented the Plaintiff from ever being able to remove the unwanted emails.

- 22. That the excessive emails have slowed down the operation of the Plaintiff's computer and damaged same.
- 23. That the Plaintiff has suffered loss of time and productivity in having to constantly remove the emails sent to him by the Defendants named herein in Count One.
- 24. That the Defendants have invaded the privacy of the Plaintiff by constantly sending unsolicited emails.
- 25. That the Defendants have failed to obey the mandates of the Can-Spam act by stopping within ten days unsolicited emails once notified.
- 26. That the Defendants have intentionally violated the Can-Spam Act and the privacy rights of the Plaintiff in addition to damaging his computer.

STATEMENT OF CLAIM

- 27. That paragraphs nineteen through twenty six are incorporated herein by reference.
- 28. That the Defendants have violated the privacy of the Plaintiff in an intentional and unlawful manner.
- 29. That the Defendants have damaged the personal property of the Plaintiff in an intentional and unlawful manner.
- 30. That the Defendants have violated the Can-Spam Act of 2003 in an intentional and unlawful manner, in order to further their own financial gain.

RELIEF DEMANDED

- 31. That paragraphs twenty seven through thirty are incorporated herein by reference.
- 32. That the Plaintiff have and recover from each Defendant for each unlawful email sent, the maximum amount allowed by statute under the Can-Spam Act.
- 33. That the Plaintiff have and recover from each Defendant the sum of one thousand five hundred dollars for damage to his computer.
- 34. That the Plaintiff have and recover from each Defendant a sum in excess of ten thousand dollars for invading the privacy of the Plaintiff.
- 35. That the Plaintiff have a trial by jury.
- 36. That the cost of this action be taxed against the Defendants.

COUNT TWO

AGAINST DEFENDANTS:

ALLEN-EDMONDS SHOE CORPORATION; INTERSEARCH GROUP, INC.; TRUSCO MANUFACTURING COMPANY; PRICEGRABBER.COM, INC.; SHOPZILLA, INC; DAZADI, INC.; SIX THREE ZERO ENTERPRISES, LLC

STATEMENT OF FACTS

- 37. That paragraphs 13-16 are incorporated herein by reference.
- 38. That the Defendants, through nefarious means, did cause a worm or virus to be placed on the computer of the Plaintiff in order to facilitate the Defendants being able to control where the Plaintiff's browser would go when using Google

or any type search engine, other than theirs. This worm or virus is unknown and undetectable by the Plaintiff. The virus or worm was placed there illegally, without the consent or knowledge of the Plaintiff and when it was in fact placed there, constituted a trespass upon the computer of the Plaintiff and an invasion of privacy of the Plaintiff. Further, said actions are illegal in nature.

- 39. That the virus or worm placed on the Plaintiff's computer, without his knowledge or consent, has damaged his Internet Browser to the point of the Browser being non functional.
- 40. That the virus or worm placed by the Defendants is a brilliant scientific design as it evades detection by legitimate Virus Detection devices and worm blockers, yet is illegal.
- 41. That the virus or worm works like this: a. The Plaintiff will type in a search word on his Google tool bar. He will then click on the first site shown by Google or any site shown by Google and instead of going to that site is redirected or "Jumps" to a site promoted by the Defendants. Thereafter, the Plaintiff cannot even copy and paste the site he wants into his Internet Explorer address bar as the Defendants worm or virus blocks him from doing so. When the Plaintiff attempts to click on a non commercial site, the Browser shows that there is no access to the Internet. By design, the Plaintiff has no other choice than to view the ads of the Defendants.
- 42. That the Defendants named herein either promote the entry of the virus or worm to the computer of the Plaintiff, or benefit from same. The Defendants which benefit from the introduction of the virus know or should know, that the

actions of certain Defendants is illegal and that the ad rates they are paying for the service of getting hits from the Plaintiff, are so far below market value as to tip them off that the actions in placing the worm and virus are in fact illegal.

43. That the Defendants have caused the Plaintiff personal damage to his property and invaded his privacy in order to secure very low advertising rates and have done this in violation of the laws of North Carolina.

STATEMENT OF CLAIM

- 44. That paragraphs 37-43 are incorporated herein by reference.
- 45. That the Defendants have damaged the personal property of the Plaintiff.
- 46. That the Defendants have violated the privacy rights of the Plaintiff.
- 47. That the Defendants have illegally entered the property of the Plaintiff to his detriment.
- 48. That the Plaintiff has suffered loss of money, time and aggravation because of the actions of the Defendants.
- 49. That the Plaintiff has the actions described herein memorialized on a digital CD.

RELIEF DEMANDED

50. That paragraphs forty four through forty nine are incorporated herein by reference.

- 51. That the Plaintiff have and recover from each Defendant an amount in excess of ten thousand dollars for invading the privacy of the Plaintiff in punitive damages.
- 52. That the Plaintiff have and recover from each Defendant an amount in excess of ten thousand dollars for damaging the computer of the Plaintiff, in punitive damages.
- 53. That the Plaintiff have and recover from each Defendant the sum of one thousand five hundred dollars in actual damages for damaging the computer of the Plaintiff.
- 54. That the Plaintiff have a trial by jury.
- 55. That the cost of this action be paid by the Defendants.
- 56. For any other relief the Court may deem just and proper.

Respectfully submitted this the 22nd of May, 2007.

C. Burgess

POB 6355

Hendersonville, NC 28793

Nossell1234@mchsi.com

828-595-4290

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PAGE 82/11

STATE OF NORTH CAROLINA	File No.
County	In The General Court Of Justice ☐ District ☑ Superior Court Division
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OD 6355	
Py, State, <i>Up</i>	CIVIL SUMMONS
Hendersonville, NC 28793	ALIAS AND PLURIES SUMMONS
VERSUS	G.S. 1A-1, Rules 1
Sforce Media, Inc., et als	Date Original Surfrayore lessed
	Date(s) Subsequent Surreners(es) Issued
To Each Of The Befendant(s) Named Below:	
arie And Addrises Of Defendant 1	Nation Address Of Consolidant 2
Riorce Media, Inc. Vational Registered Agents, Inc., Registered Agent 1030 Main Street, Str 1030 Tvine, California 92614	Iwizard Holding, Inc. James Piccolo, Registered Agent 7077 E. Marilyn Rd. #130 Scottsdale, Arizona 85254
Chall Antique Hay Day of	·
CMI Action Has Seen Commenced Against You!	•
ou are notified to appear and answer the complaint of the	plaintiff as follows:
 Serve a copy of your written answer to the complaint upon you have been served. You may serve your answer by o last known address, and 	on the plaintiff or plaintiff's attorney within thirty (30) days after delivering a copy to the plaintiff or by mailing it to the plaintiff's
. File the original of the written answer with the Clerk of St	uperior Court of the county named above.
you fall to answer the complaint, the plaintiff will apply to t	
to And Address Of Plainter's Altomay (If None, Address Of Plainte)	Date Issued Time
Burgess, Pro Se Ø 6355	5-22-07 11:10 BAM PM
ndersonville, NC 28793	Find Lane
3-595-4290 	Deputy GSC Assistant CSC Clerk Of Superior Court
ENDORSEMENT	Quite Of Endockermon Time
This Summons was originally issued on the date	☐ AM ☐ PM
indicated above and returned not served. At the request	Signature
of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.	Deputy CSC Assistant CSC Clerk Of Superior Dougt
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Eforce Media, Inc., et als Date(Date(Date(Date(Date(Date(D	In The General Court Of Justice District Superior Court Division CIVIL SUMMONS ALIAS AND PLURIES SUMMONS G.S. 1A-1, Rules 3, Original Summons Issued Superior Court Division CIVIL SUMMONS G.S. 1A-1, Rules 3, Original Summons Issued
C. Burgess Address POB 6355 City, State, Zip Hendersonville, NC 28793 VERSUS Name Of Defendant(s) Eforce Media, Inc., et als Date To Each Of The Defendant(s) Named Below: Name And Address Of Defendant 1 Adknowledge, Inc. CT Corporation System, Registered Agent 120 South Central Avenue Clayton, MO 63105 A Civil Action Has Been Commenced Against Youl	G.S. 1A-1, Rules 3, Original Summons Issued (s) Subsequent Summons(es) Issued
Address POB 6355 City, State, Zip Hendersonville, NC 28793 VERSUS Name Of Defendant(s) Eforce Media, Inc., et als Date To Each Of The Defendant(s) Named Below: Name And Address Of Defendant 1 Adknowledge, Inc. CT Corporation System, Registered Agent 120 South Central Avenue Clayton, MO 63105 A Civil Action Has Been Commenced Against Youl	G.S. 1A-1, Rules 3, Original Summons Issued (s) Subsequent Summons(es) Issued
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CT Corporation System, Registered Agent 120 South Central Avenue Clayton, MO 63105 A Civil Action Has Been Commenced Against Youl	
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You are notified to appear and answer the complaint of the plaintiff	
•	as follows:
 Serve a copy of your written answer to the complaint upon the p you have been served. You may serve your answer by deliverir last known address, and 	plaintiff or plaintiffs attomey within thirty (30) days aftering a copy to the plaintiff or by mailing it to the plaintiffs
2. File the original of the written answer with the Clerk of Superior	Court of the county named above.
f you fail to answer the complaint, the plaintiff will apply to the Cour	rt for the relief demanded in the complaint.
ame And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff) Date is	sued Time
C. Burgess, Pro Se	-22-07 11:10 BAM IPM
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lendersonville, NC 28793	Eind of Onne
28-595-4290	Deputy CSC Assistant CSC Clerk Of Superior Court
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This Summons was originally issued on the date indicated above and returned not served. At the request	re
of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.	Deputy CSC Assistant CSC Clerk Of Superior Court
	

so, what procedure is to be followed.

STATE OF NORTH CAROLINA	File Na.
POLK County	In The General Court Of Justice
	☐ District ☑ Superior Court Division
Name Of Plaintiff	
C. Burgess	
Address	
POB 6355	CIVIL SUMMONS
City, State, Zip Hendersonville, NC 28793	☐ ALIAS AND PLURIES SUMMONS
VERSUS	······································
Name Of Defendent(s)	G.S. 1A-1, Rules 3, 4 Date Original Summons Issued
Eforce Media, Inc., et als	05-00-000** -
	Date(s) Subsequent Summons(es) issued
To Each Of The Defendant(s) Named Below:	
lame And Address Of Defendant 1	Name And Address Of Defendant 2
	Six Three Zero Enterprises, LLC
Baseball Express, Inc.	Michael Turack, Registered Agent
Patrick M. Cowles, Registered Agent	20938 Normandie Avenue
1051 E. Nakoma San Antonio, TX 78216	Torrance, CA 90502
Sar Fillolio, 17. 70210	
A Civil Action Has Been Commenced Against You!	
You are notified to appear and answer the complaint of th	•
 Serve a copy of your written answer to the complaint u you have been served. You may serve your answer by last known address, and 	pon the plaintiff or plaintiff's attorney within thirty (30) days after y delivering a copy to the plaintiff or by mailing it to the plaintiff's
2. File the original of the written answer with the Clerk of	Superior Court of the county named above.
f you fail to answer the complaint, the plaintiff will apply to	
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C. Burgess, Pro Se POB 6355	3-22-07 //:/0 Signature / PM
Iendersonville, NC 28793	built & anner
28-595-4290	Deputy CSC Assistant CSC Cierk Of Superior Court
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be served is extended sixty (60) days.	Deputy CSC Assistant CSC Clerk Of Superior Court
OTE TO PARTIES: Many counties have MANDATORY ARBITRATION less are heard by an arbitrator before a trial. The so, what procedure is to be followed.	ON programs in which most cases where the amount in controversy is \$15,000 or a parties will be notified if this case is assigned for mandatory arbitration, and, if
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STATE OF MODELL CAROLINA	File Na.
STATE OF NORTH CAROLINA	07-CV
POLK County	131
County	In The General Court Of Justice
<u> </u>	☐ District ☑ Superior Court Division
Name Of Plaintiff	
C. Burgess	
Address	
POB 6355 City, State, Zip	CIVIL SUMMONS
Hendersonville, NC 28793	☐ ALIAS AND PLURIES SUMMONS
VERSUS	
Name Of Defendant(s)	G.S. 1A-1, Rules 3,
Eforce Media, Inc., et als	Series Confined Containoris 155080
mand strong, thou, or the	Date(s) Subsequent Summons(es) Issued
To Each Of The Defendant(s) Named Below:	
Name And Address Of Defendant 1	Name And Address Of Defendant 2
Shopzilla, Inc.	PriceGrabber.com, Inc.
CT Corporation System, Registered Agent	CT Corporation System, Registered Agent
818 West Seventh Street	818 West Seventh Street
Los Angeles, CA 90017	Los Angeles, CA 90017
A Civil Action Has Been Commenced Against You!	
You are notified to appear and answer the complaint of the	plaintiff as follows:
 Serve a copy of your written answer to the complaint upon you have been served. You may serve your answer by a last known address, and 	on the plaintiff or plaintiff's attorney within thirty (30) days after delivering a copy to the plaintiff or by mailing it to the plaintiff's
2. File the original of the written answer with the Clerk of Su	perior Court of the county named above.
If you fail to answer the complaint, the plaintiff will apply to tr	
ame And Address Of Plaintiff's Attorney (if None, Address Of Plaintiff)	Date Issued Time
C. Burgess, Pro Se	5 22-07 1/10 BAM DPM
POB 6355	Signature
Hendersonville, NC 28793 128-595-4290	Lind Lame
120-373-4270	Qeputy CSC Assistant CSC Clerk Of Superior Court
☐ ENDORSEMENT	Date Of Endorsement Time AM PM
This Summons was originally issued on the date	
indicated above and returned not served. At the request	Signature
of the plaintiff, the time within which this Summons must	
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OTE TO PARTIES. Many counties have MANDATORY ADDITIONATION	
less are heard by an arbitrator before a trial. The pa so, what procedure is to be followed.	programs in which most cases where the amount in controversy is \$15,000 or rities will be notified if this case is assigned for mandatory arbitration, and, if
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STATE OF NORTH CAROLINA	File No.
OTATE OF RORTH DAROLINA	97-
POLK County	In The General Court Of Justice
	☐ District ☑ Superior Court Divisic
Name Of Plaintiff	
C. Burgess	<u> </u>
Address	
POB 6355 City, State, Zip	CIVIL SUMMONS
Hendersonville, NC 28793	☐ ALIAS AND PLURIES SUMMONS
VERSUS	_
Name Of Defendant(s)	G.S. 1A-1, Rule: Date Original Summons Issued
Eforce Media, Inc., et als	0 6-02-2007
	Date(z) Subsequent Summons(ex) laxued
W. C. Address and a second	
To Each Of The Defendant(s) Named Below:	
10. 10. 10. 10. 10. 10. 10. 10. 10. 10.	Name And Address Of Defendant 2
Dazadi, Inc. Jason Robert Boyce, Registered Agent	Intersearch Group, Inc.
20134 Leadwell St., #373	Corporate Service Bureau, Inc., Registered Agent 3500 South Dupout Highway
Winnetka, CA 91306	Dover, DE 19901
	•
A Civil Action Has Been Commenced Against Youl	
- A CAN MANAGE TO SEE TO SEE TO SEE TO SEE	
You are notified to appear and answer the complaint of the p	laintiff as follows:
 Serve a copy of your written answer to the complaint upo you have been served. You may serve your answer by d last known address, and 	n the plaintiff or plaintiff's attorney within thirty (30) days after elivering a copy to the plaintiff or by mailing it to the plaintiff'.
2. File the original of the written answer with the Clerk of Su	perior Court of the county named above.
If you fail to answer the complaint, the plaintiff will apply to th	e Court for the relief demanded in the complaint.
ame And Address Of Plantiff's Attorney (If None, Address Of Plaintiff)	Date Issued Time
C. Burgess, Pro Se	5 22:07 11110 DAM [PS
POB 6355	Signature
Hendersonville, NC 28793	But & Clina
28-595-4290	Deputy CSC Assistant CSC Clerk Of Superior Court
	Date Of Endorsement Three
☐ ENDORSEMENT	AM P1.2
This Summons was originally issued on the date indicated above and returned not served. At the request	Signature
of the plaintiff, the time within which this Summons must	
be served is extended sixty (60) days.	Deputy CSC Assistant CSC Clerk Of Superfor Court
	La Deputy CSC La Assertant CSC La Clerk Of Superior Count
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STATE OF NORTH CAROLINA	File No.
POLK County	in The General Court Of Justice ☐ District ☑ Superior Court Division
Name Of Plaintiff	
C. Burgess	_
Address POB 6355	
City, State, Zip	
Hendersonville, NC 28793	ALIAS AND PLURIES SUMMONS
VERSUS	G.S. 1A-1, Rules 3, 4
Name Of Defendant(s)	Date Original Summons Issued
Eforce Media, Inc., et als	Date(s) Subsequent Summons(es) Issued
To Each Of The Defendant(s) Named Below:	
Name And Address Of Defendent 1	Name And Address Of Defendant 2
Trusco Manufacturing Company Bradley S. Harris, Registered Agent 3959 NW 95th Avenue Road Ocala, Florida 34482	Allen-Edmonds Shoe Corporation Jay P. Schauer, Registered Agent 201 E. Seven Hills Road Port Washington, WI 53074
A Civil Action Has Been Commenced Against Youl	
You are notified to appear and answer the complaint of the p	signiff og fallaum
1. Serve a copy of your written answer to the complaint upon	n the plaintiff or plaintiff's attorney within thirty (30) days after elivering a copy to the plaintiff or by mailing it to the plaintiff's
2. File the original of the written answer with the Clerk of Su	perior Court of the county named above.
If you fall to answer the complaint, the plaintiff will apply to the	e Court for the relief demanded in the complaint.
Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)	Dete Issued Time 5-22-07 //:/0 □ AM □ PM
C. Burgess, Pro Se POB 6355	Skynature
Hendersonville, NC 28793	Lind L Dine
828-595-4290	Baputy CSC Assistant CSC Clerk Of Superior Court
☐ ENDORSEMENT	Date Of Endorsement Time
This Summons was originally issued on the date	□ AM □ PM
indicated above and returned not served. At the request	Signature
of the plaintiff, the time within which this Summons must	
be served is extended sixty (60) days.	Deputy CSC Assistant CSC Clerk Of Superior Court
NOTE TO PARTIES: Many counties have MANDATORY ARBITRATION	programs in which most cases where the amount in controversy is \$15,000 or
less are heard by an arbitrator before a trial. The pa so, what procedure is to be followed.	arties will be notified if this case is assigned for mandatory arbitration, and, if

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